

REMARKS/ARGUMENTS

Claims 1-22 have been withdrawn. Claims 23-26 have been amended. Claims 27-33 have been added. Thus claims 23-33, as amended are currently under examination.

Claim Objections

Claims 23-26 have been objected to because they depend from non-elected claims 1, 2 and 11. Claim 23 has been amended to remove any dependencies on non-elected claims. Accordingly, applicants respectfully request withdrawal of the objection.

35 USC §102 – anticipation

Claims 23-26 have been rejected under 35 U.S.C. §102(e) as allegedly anticipated by Enenkel et al. According to the Office Action Enenkel et al. teaches methods of generating genetically modified mammalian host cells using hamster ubiquitin S27a promoter and further having an additional marker which is fluorescent, particularly GFP, and sorting the cells using FACS. See Office Action at 3. While applicants respectfully disagree, claim 23 has been amended to recite “isolating cell pools which achieve average specific protein/product productivities of more than 10 pg of recombinant protein/product expression per cell per day without gene amplification.” This intermediate step is not described in Enenkel et al. Enenkel et al. merely describes a process which first uses one or several amplification steps and thereafter selects for single cells. The intermediate step of isolating cell pools reduces the number of gene amplification steps for selection of a host cell. Thus, the invention as claimed is not anticipated by Enenkel et al. Accordingly, applicants respectfully request withdrawal of the rejection.

35 USC §112, second paragraph - indefiniteness

Claims 25 and 26 have been rejected under 35 U.S.C. §112, second paragraph as being allegedly indefinite based on the recitation “one or more additional gene amplification steps” because according to the Office Action the word “additional” is confusing. Applicants have removed the recitation of the word additional. Accordingly, applicants respectfully request withdrawal of the rejection.

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In view of the foregoing, it is respectfully submitted that the subject application is in condition for allowance and such favorable action at an early date is earnestly solicited.

Respectfully submitted,

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